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09/720,286	02/28/2001	Douglas B. Macrae	IS/112	1245

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/720,286

Applicant(s)

MACRAE ET AL.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-20 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 9 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-6, 8,10-11,14,16-18, 20, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (US 5,559,550), and in view of Birdwell et al. (US 6,108,706).

Regarding claim 1, Mankovitz teaches a method for intermittently (periodically) downloading television program data to a plurality of user terminals equipped with a data receiver (tuner 1272, VBI decoder 1294 – figure 8A), a memory (program schedule memory 1282 – figure 8A) for storing television program data, an on screen electronic

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program guide generator (video processor 1296 – figure 8A), a microprocessor (1284 – figure 8A), and a display monitor (1280 – figure 8A) for displaying a television program and an electronic program guide (figure 9), the method comprising the steps of:

storing the transmitted program data in the memory (storing program schedule into program schedule memory 1282 –col. 9, lines 11-23);

transferring the television program data from the memory to the electronic program guide generator in response to user commands (i.e., the viewer presses Guide/TV button 1312 on remote controller 1310 and the microprocessor 1284 recalls a portion of the program schedule database from memory 1282 and coupled it to video processor 1296 – col. 9, lines 45-56);

controlling the electronic program guide generator to generate a video drive signal representative of an electronic television guide (in response to the command, the microprocessor recalls a portion of the program schedule database from memory 1282 and couples it to video processor 1296, where the program listings are formatted for display (col. 9, lines 45-67);

coupling the electronic program guide generator to the display monitor to display the electronic program guide (coupling the video processor 1296 to the monitor 1280 to display the program listings – col. 9, lines 45-67 and figures 8A-9). Mankovitz further discloses using viewer input devices to control the system (col. 11, lines 3-30); and the remote control comprises a power button to turn the device on/off (figure 2b).

Inherently, the data receiver is normally powered off and on in respond to user selection of power button. However, Mankovitz does not specifically disclose powering the data

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receiver on to receive an instruction packet, wherein the instruction packet comprises information indicative of a later time for receiving the television program data;

storing the information from the instruction packet in the memory;

controlling the data receiver to receive the television program data at the later time.

Birdwell discloses powering the data receiver on to receive an instruction packet (the client comprises device that listen and receives the announcement packet – col. 4, line 65-col. 5, line 15. Inherently, the receiver is power on to receive the announcement packet), wherein the instruction packet comprises information indicative of a later time for receiving the television program data (col. 1, line 64-col. 2, line 5; col. 5, lines 10-25); storing the information from the instruction packet in the memory (col. 5, lines 1-14, lines 25-46; col. 6, lines 5-12, lines 55-62, figure 2); controlling the data receiver to receive the television program data at the later time (col. 5, lines 42-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz to use the teaching as taught by Birdwell in order to inform clients of upcoming data transmission prior to their broadcast and instruct the client how to receive the broadcast transmission (col. 1, lines 54-57).

Regarding claim 4, Birdwell further discloses controlling the data receiver to further receive a filter packet associated with at least on of the instruction packet and the television program data, the filter packet comprising filter information specifying at least

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one characteristic of at least one terminal (e.g. program rate, category, etc. that interest to user of the client – col. 5, lines 10-25; col. 6, lines 35-44);

performing the storing of at least one of the information associated with the instruction packet and the television program data in the memory when the filter information matches the user terminal (col. 5, lines 25-39; col. 6, lines 16-50, figure 4).

Regarding claim 5, Birdwell further discloses the at least one characteristic comprises at least one of a software version of the user terminal, a zip code of the user terminal, and an area of interest by a viewer using the user terminal (e.g. sports related programs – col. 5, lines 10-39, col. 6, lines 1-61).

Regarding claim 6, Birdwell further discloses the announcement can be received in a data link (secondary link other than the broadcast network – col. 2, lines 6-17).

Regarding claim 8, Birdwell discloses receiving announcements at the receiver (col. 5, lines 10-45). Thus, the claimed feature of “powering the data receiver on to receive a second instruction packet, wherein the second instruction packet comprises second time information that instructs the user terminal to receive instruction packet with the information at a later second time” is broadly met by the later announcement packet received during the client is powered on. The later announcement comprises second time information.

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Regarding claim 10, Mankovitz further discloses controlling the data receiver to receive a time packet that comprises a global clock time (network clock), and synchronizing a clock at the user terminal (calendar clock) to the global clock time (col. 11, lines 50-51; col. 12, lines 2-24)

Regarding claim 11, Mankovitz further discloses the television program data comprises at least one of channel, time, day, etc. (col. 15, lines 45-52, figure 9,11B).

Regarding claims 14,16-18, 20, 22-23, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1,4,6-8, 10-11, and are analyzed as discussed with respect to the rejections of claims 1,4,6-8,10-11.

4. Claims 3, 7, 12-13, 15, 19, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (US 5,559,550), and in view of Birdwell et al. (US 6,108,706) as applied to-claims 1,14 above, and further in view of Shimakawa et al. (US 6,452,644).

Regarding claim 3, Mankovitz in view of Birdwell discloses a method as discussed in the rejection of claim 1. However, neither Mankovitz nor Birdwell specifically discloses powering the data receiver off after receiving the instruction packet; powering the data receiver on before receiving the television program data at the later time; and powering the data receiver off after receiving the television program data at the later time.

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Shimakawa discloses powering the data receiver off (standby mode) after receiving the instruction packet (reception control information); powering the data receiver on (reactivate the receiver) before receiving the television program data at the later time; and powering the data receiver off (standby mode) after receiving the television program data at the later time (col. 5, line 29-col. 6, line 55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz and Birdwell to use the teaching as taught by Shimakawa in order to achieve great reduction in the power consumption of the receiver (col. 5, lines 4-7; col. 6, lines 2-6).

Regarding claim 7, Mankovitz in view of Birdwell discloses a method as discussed in the rejection of claim 1. However, neither Mankovitz nor Birdwell specifically discloses only a portion of the television program data that is not already stored in the user terminal is stored in the memory.

Shimakawa discloses only a portion of the television program data that is not already stored in the user terminal is stored in the memory (col. 6, lines 30-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz and Birdwell to use the teaching as taught by Shimakawa in order to reduce download time since only new data is received, thereby achieve great reduction in the power consumption of the receiver (col. 5, lines 4-7; col. 6, lines 2-6).

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Regarding claim 12, Mankovitz in view of Birdwell discloses a method as discussed in the rejection of claim 1. However, neither Mankovitz nor Birdwell specifically discloses powering the data receiver on to receive the instruction packet at a predetermine time.

Shimakawa discloses powering the data receiver on to receive the instruction packet at a predetermined time (powering the data receiver on based on time provided in the reception control information-col. 5, line 35-col. 6, line 55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz and Birdwell to use the teaching as taught by Shimakawa in order to achieve great reduction in the power consumption of the receiver (col. 5, lines 4-7; col. 6, lines 2-6).

Regarding claim 13, Mankovitz in view of Birdwell discloses a method as discussed in the rejection of claim 1. However, neither Mankovitz nor Birdwell specifically discloses intermittently powering the data receiver on for first duration of time that is longer than a second duration of time corresponding to the length of time in which the instruction packet is transmitted in order to receive the instruction packet, wherein the length of time between intermittently powering the data receiver on is set at starting value, successively decreased until the instruction packet is received, and subsequently reset to the starting value.

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Shimakawa discloses the receiver is powered on to receive the data as long as the transmission takes place, wherein the transmission time is based on the time in the reception control information, the receiver enter standby mode again after the end of transmission (col. 5, line 15-col. 6, line 55). Shimakawa further discloses only receive information that is not already received. Necessarily, the receiver on for first duration of time (time required to receive the total new data) that is longer than a second duration of time (time required to receive only update data) corresponding to the length of time in which the instruction packet is transmitted in order to received the packet. Shimakawa further discloses the reception control information data may specify intermittent transmission data which specifies a broadcasting interval of the program, for example, each hour or each day (col. 5, lines 50-55; col. 6, lines 40-55). Necessarily, the length of time between intermittently powering the data receiver on is set at a starting value (e.g. starting at every hour if data is intermittently transmitted every hour), successively decreased until the instruction packet is received, and subsequently reset to the starting value. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz and Birdwell to use the teaching as taught by Shimakawa in order to reduce download time since only new data is received, thereby achieve great reduction in the power consumption of the receiver (col. 5, lines 4-7; col. 6, lines 2-6).

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Regarding claim 15,19,24-25, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 3, 7, 12-13, and are analyzed as discussed with respect to the rejection of claims 3,7,12-13.

5. Claims 1, 3-4, 7, 8, 10-15, 18-20, 22-25 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (US 5,559,550), and in view of Shimakawa (US 6,452,644).

Regarding claim 1, Mankovitz teaches a method for intermittently (periodically) downloading television program data to a plurality of user terminals equipped with a data receiver (tuner 1272, VBI decoder 1294 – figure 8A), a memory (program schedule memory 1282 – figure 8A) for storing television program data, an on screen electronic program guide generator (video processor 1296 – figure 8A), a microprocessor (1284 – figure 8A), and a display monitor (1280 – figure 8A) for displaying a television program and an electronic program guide (figure 9), the method comprising the steps of: storing the transmitted program data in the memory (storing program schedule into program schedule memory 1282 –col. 9, lines 11-23); transferring the television program data from the memory to the electronic program guide generator in response to user commands (i.e., the viewer presses Guide/TV button 1312 on remote controller 1310 and the microprocessor 1284 recalls a portion of the program schedule database from memory 1282 and coupled it to video processor 1296 – col. 9, lines 45-56);

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controlling the electronic program guide generator to generate a video drive signal representative of an electronic television guide (in response to the command, the microprocessor recalls a portion of the program schedule database from memory 1282 and couples it to video processor 1296, where the program listings are formatted for display (col. 9, lines 45-67);

coupling the electronic program guide generator to the display monitor to display the electronic program guide (coupling the video processor 1296 to the monitor 1280 to display the program listings – col. 9, lines 45-67 and figures 8A-9). Mankovitz further discloses using viewer input devices to control the system (col. 11, lines 3-30); and the remote control comprises a power button to turn the device on/off (figure 2b).

Inherently, the data receiver is normally powered off and on in response to user selection of power button. However, Mankovitz does not specifically disclose powering the data receiver on to receive an instruction packet, wherein the instruction packet comprises information indicative of a later time for receiving the television program data; storing the information from the instruction packet in the memory; controlling the data receiver to receive the television program data at the later time.

Shimakawa discloses powering the data receiver on to receive an instruction packet (power on the receiver to receive reception control information), wherein the instruction packet comprises information indicative of a later time for receiving the television program data (col. 5, line 15-col. 6, line 55);

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storing the information from the instruction packet in the memory (since the receiver goes to standby mode and be reactivate again based on data received in the received reception control information -col. 5, lines 50-40, the reception control information is inherently stored in the memory);

controlling the data receiver to receive the television program data at the later time (col. 5, lines 35-67, col. 6, lines 40-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz to use the teaching as taught by Shimakawa in order to achieve great reduction of power consumption of the receiver – col. 5, lines 5-7).

Regarding claim 3, Shimakawa further discloses powering the data receiver off (standby mode) after receiving the instruction packet (reception control information); powering the data receiver on (reactivate the receiver) before receiving the television program data at the later time; and powering the data receiver off (standby mode) after receiving the television program data at the later time (col. 5, line 29-col. 6, line 55).

Regarding claim 4, Shimakawa further discloses the instruction packet and the television data (digital data) is received in vertical blanking interval (col. 7, lines 1-7).

Regarding claim 7, Shimakawa further discloses only a portion of the television program data that is not already stored in the user terminal is stored in the memory (col. 6, lines 30-55).

Regarding claim 8, Shimakawa further discloses powering the data receiver on to receive a second instruction packet (reception control information subsequent to the received reception control information), wherein the second instruction packet comprises second time information (e.g. "tomorrow at 04:00 A.M") that instructs the user terminal to receive the instruction packet with the information at a later second time (col. 5, lines 30-67; col. 6, lines 38-55).

Regarding claim 10, Mankovitz further discloses controlling the data receiver to receive a time packet that comprises a global clock time (network clock), and synchronizing a clock at the user terminal (calendar clock) to the global clock time (col. 11, lines 50-51; col. 12, lines 2-24)

Regarding claim 11, Mankovitz further discloses the television program data comprises at least one of channel, time, day, etc. (col. 15, lines 45-52, figure 9,11B).

Regarding claim 12, Shimakawa further discloses powering the data receiver on to receive the instruction packet at a predetermined time (powering the data receiver on based on time provided in the reception control information-col. 5, line 35-col. 6, line 55).

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Regarding claim 13, Shimakawa further discloses the receiver is powered on to receive the data as long as the transmission takes place, wherein the transmission time is based on the time in the reception control information, the receiver enter standby mode again after the end of transmission (col. 5, line 15-col. 6, line 55). Shimakawa further discloses only receive information that is not already received. Necessarily, the receiver on for first duration of time (time required to receive the total new data) that is longer than a second duration of time (time required to receive only update data) corresponding to the length of time in which the instruction packet is transmitted in order to received the packet. Shimakawa further discloses the reception control information data may specify intermittent transmission data which specifies a broadcasting interval of the program, for example, each hour or each day (col. 5, lines 50-55; col. 6, lines 40-55). Necessarily, the length of time between intermittently powering the data receiver on is set at a starting value (e.g. starting at every hour if data is intermittently transmitted every hour), successively decreased until the instruction packet is received, and subsequently reset to the starting value.

Regarding claims 14-15, 18-20, 22-25, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1, 3-4, 6-8, 10-13, and are analyzed as discussed with respect to the rejection of claims 1, 3-4, 6-8, 10-13.

***Allowable Subject Matter***

6. Claims 9 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kerman (US 5,659,366) discloses notification system for television receivers.

Cuccia (US 6,337,719) discloses apparatus for receiving signals during power off (stand-by) mode.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH  
June 26, 2005



CHRIS GRANT  
PRIMARY EXAMINER